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ZNR UUUUU ZZH
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FM AMEMBASSY SEOUL
TO RUEHC/SECSTATE WASHDC PRIORITY 7452
INFO RUEHBJ/AMEMBASSY BEIJING 0511
RUEHKO/AMEMBASSY TOKYO 0590
RHMFIASS/COMUSKOREA J2 SEOUL KOR
RHMFIAU/COMUSKOREA SCJS SEOUL KOR
RUEHC/DEPT OF LABOR WASHINGTON DC
RHMFIASS/COMUSKOREA J5 SEOUL KOR
RUCPDOC/DEPT OF COMMERCE WASHDC 1407

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STATE FOR EAP/K AND EB/TPP/BTA
PASS USTR FOR CUTLER, KARESH, ANGEROT AND KI

E.O. 12958: N/A

TAGS: ECON ELAB ETRD KS PGOV

SUBJECT: FTA LABOR TEAM MEETS ROKG OFFICIALS

REF: A. SEOUL 507

1B. SEOUL 548
1C. SEOUL 549

SENSITIVE BUT UNCLASSIFIED -- PLEASE HANDLE ACCORDINGLY

11. (SBU) SUMMARY: U.S. FTA labor negotiators visited Seoul April 4 through 7 to meet with Korean government, management, and labor representatives; explain the FTA process; and conduct background research on Korean labor law and practices. Below, we report on the delegation's meetings with the ROKG, including representatives of the Ministry of Foreign Affairs and Trade, the Ministry of Labor, the National Assembly, the Tripartite Commission, and the Korea Labor Institute. In general, the ROKG officials were well-prepared, cooperative, and hopeful that an FTA would be successfully concluded. Labor and management meetings will be reported septel. END SUMMARY.

DELEGATION IN LISTENING MODE

12. (SBU) FTA lead negotiator AUSTR Lewis Karesh told all interlocutors that the purpose of his trip to the ROK was not to negotiate but to learn. According to the Trade Promotion Authority (TPA), signatory countries to an FTA must have laws that respect fundamental labor rights and are effectively enforced. To ensure that this provision is fulfilled, Congress will require the Secretary of Labor to submit a "meaningful" report on the ROK's labor practices. Karesh was accompanied by Department of Labor (DOL) International Economist Carlos Romero and DRL Acting Deputy Director of International Labor Affairs Joseph De Maria.

13. (SBU) Much of the discussion centered on temporary, part-time, or other "irregular" workers and the Labor-Management Roadmap. (These issues are discussed in-depth in Reflets A, B, and C.) Briefly, the irregular worker issue refers to pending legislation that would prohibit discrimination against irregular workers and turn them into regular workers after two years of employment. The government intends to pass the bill, which is opposed by both labor and management, in April. The Roadmap, meanwhile, is a schedule of labor reforms, most of which were suggested by the OECD or ILO in the late 1990s. The Roadmap includes measures that would help manage the January 2007 introduction of multiple trade unions at the enterprise level and the

cessation of corporate payments to full-time union workers. Controversy over the irregular worker bill has prevented in-depth consideration of the Roadmap.

MOFAT ASKS PROBING QUESTIONS

¶4. (SBU) Kwon Yong-seok, Director of the FTA Bureau, said MOFAT was concerned that perceptions in the U.S. Congress about the Korean labor situation could differ from reality. Kwon said the ROK Ambassador to the U.S. has been visiting with Members of Congress to correct misperceptions and assure them that Korea has become a totally different country over the past 20 years.

¶5. (SBU) In the ROK, Kwon said that there was confusion regarding the intention of the labor provisions. Many people did not understand why American companies asked for increased labor flexibility while FTA negotiators asked for increased labor protections. There was a perception, he said, that an FTA would reduce labor rights. In explaining the FTA to the public, the Team pointed out that under an FTA a party could not weaken its labor protections to attract investment.

¶6. (SBU) Kwon asked which previous FTA was the model for the ROK FTA. When Karesh noted that we were not yet negotiating, Kwon proceeded to differentiate the ROK situation from Oman and Bahrain and to note differences between earlier and later U.S. FTAs. In response to a specific comment concerning the provisions on procedural guarantees, Karesh said that most of the fundamental requirements, drawn from the NAFTA labor chapter, remained the same. Kwon suggested that because ROK labor law could satisfy all international requirements, the ROK agreement would not need to be as complicated as some of the other labor agreements.

¶7. (SBU) Kwon asked whether labor regulations in Special Economic Zones (SEZ) that deviated from domestic laws but still met international standards would be permissible under an FTA. Karesh said that treatment of foreign companies in SEZs would require further consideration. Asking about labor practices in the United States, Kwon inquired whether the federal government could intervene if a state failed to enforce its labor laws. If not, he asked, what was the remedy for ineffective enforcement of state laws? Karesh explained that the labor laws within the scope of the FTA are covered by federal law in the United States and invited Kwon and the labor negotiating team to visit the United States to learn more about federal and state labor practices.

¶8. (SBU) Kwon also asked whether, under an FTA, U.S. trade unions could request ROKG investigations into labor practices. Karesh said that FTAs established points of contact in the respective governments and require the points of contact to establish procedures for reviewing communications from the public. Depending on the final agreement, the U.S. government could alert the Ministry of Labor (MOL) or Ministry of Trade to a situation or inquiry. The governments would then determine how to move forward. The Agreements promoted transparency and communication; they did not interfere with a government's decision on how to respond to those communications.

¶9. (SBU) Finally, Kwon asked about the scope of consultations under FTAs, the frequency of consultations, enforcement mechanisms in other FTAs, the ability of the public to participate during the FTA negotiation process, the extent of cooperative activities, AFL-CIO and public objections to an FTA, and administrative issues regarding upcoming negotiations. Kwon expressed interest in cooperative programs on labor issues between the United States and Korea.

MOL SEEKS JOB CREATION AND LABOR REFORM

¶10. (SBU) Jung Chul-gyun, Director of the MOL Labor Relations Policy Bureau, said job creation was the Labor

Ministry's highest priority. The government wanted to foster cooperation among provinces, industry and labor and provide retraining and life-long vocational development. Increasing the employment of women and the elderly was also a priority.

¶11. (SBU) Jung said that in February 2006, there were 361,000 foreign workers, including 183,000 illegal aliens. Foreign workers had the same rights as local workers and organizations, mostly organized by the private sector, existed to help them. If there were industrial accidents or wage disputes, government policy was to deal with the problem and then send the employee home.

¶12. (SBU) Choi Jong-seok, Labor Relations Policy Bureau Deputy Director, said the illegal worker bill, if passed, would narrow the wage disparity between regular and irregular workers, limit the use of fixed-term workers and, in the long term, reduce the total number of irregular workers.

¶13. (SBU) Choi said labor leaders were not detained for union activities. He said there were cases where workers were arrested because of violence, destroying facilities, or occupying workplaces. These persons were arrested under the criminal law for criminal activities. Sometimes these acts occurred during collective action, but they were arrested for violating the criminal law. There were no recent cases of unionists being arrested just for striking, even if the strike was illegal. Choi denied instances of "paper unions."

He said that it would be an unfair labor practice if an employer tried to dominate or control its unions.

LAWMAKERS LISTENING TO DISTRICTS, NOT PARTIES

¶14. (SBU) Chairman of the Labor and Environment Committee Lee Kyeong-jae (GNP) hosted lunch for the delegation. Reps. Bae Il-do (GNP), Je Jong-geil (Uri), Chung Do-eun (GNP), Gong sung-jin (GNP), Chang Bok-sim(Uri) were also in attendance. (NOTE: As reported septel, the Delegation also met with Democratic Labor Party (DLR) Representative Dan Byung-ho. END NOTE).

¶15. (SBU) Lee said that passing the ROK-Chile FTA was a painful process that led to physical confrontation in the Assembly. Generally, said Lee, lawmakers from urban districts would support the FTA while those from rural districts, like himself, "might find the Agreement more difficult to support." Rep. Jae concurred, stating that a lawmaker's district, not party, would determine his or her position. Lee said that the "anti-American" Korean Confederation of Trade Unions (KCTU, the more radical of the ROK's two major trade confederations) and the Democratic Labor Party (DLP) would also pose a significant obstacle to passage of an FTA. Lee believed that KCTU would fundamentally object to the FTA because it would promote the U.S.-ROK alliance.

¶16. (SBU) Bae said that it would be critical to explain the objectives of an FTA to the Korean public. The public needed to know why labor mattered and that mechanisms were in place to protect workers. Karesh replied that the U.S. would try to make the process as transparent as possible and would be pleased to reach out to the public and labor groups.

¶17. (SBU) Lee pointed out that there were many differences between U.S. and ROK labor laws and that, pointing to laws protecting women and minorities, ROK law in some areas provided higher protections for workers. Problems with irregular workers would be alleviated upon passage of pending legislation and other remaining labor issues would be soon be dealt with in the Roadmap. Lee said that all efforts were being made to comply with international standards.

¶18. (SBU) Karesh said he hoped that the lawmakers would help their constituents understand that the U.S. was committed to respecting worker rights and that issues regarding working conditions would be handled responsibly. The point of an FTA was not to harmonize labor laws. Rather, the intention was

to make sure that whatever laws the countries had respected basic labor rights and were properly enforced.

KLI EXPERTS ASSESS PUBLIC SERVANTS, OTHER CURRENT ISSUES

¶119. (SBU) At the Korean Labor Institute (KLI), the delegation met with President Choi Young-ku, Lim Song-hoon, Hur Jai-joon, and Kim Na-young. Choi thought that the chances of getting some parts of the Roadmap legislated by the end of the year were "about fifty-fifty." He said the package stalled because of the dispute over the irregular worker bill, which the government wanted to pass in the April National Assembly session. Most issues regarding civil servants had been resolved, although legislation passed in January 2006 applied only to lower level officials and "excluded more officials than expected." Civil servants had alienated many supporters when they tried to launch a major strike in early 2005. Hur said the failure of the civil servants union to register under the new public servants law was simply a negotiating tactic. Lim observed that the KCTU controlled the civil servants union and that the KCTU's formative principle was not to comply with any "illegal" law. "They will struggle until they get what they want," he said. Choi thought there was no chance that the government would give public servants the right to take collective action; however, the ROKG might expand the scope of the law through a Presidential decree or expansive interpretation of current law.

¶120. (SBU) Lim said the two biggest issues with labor were addressing the emergence of multiple trade unions at the enterprise level and the cessation of payments for full-time workers, both of which are scheduled to occur in January 2007. Choi said that the government wanted to unify the negotiating channel, a step that would require National Assembly legislation because it could limit some unions' right to bargain collectively. Labor insisted on having multiple parties at the table. "There are some concerns about how this will be worked out," Lim said. Choi said that these were such sensitive issues, the parties appeared to be postponing debate, at least until after the irregular worker issue was resolved.

¶121. (SBU) On irregular workers, Hur said that the strictness of Korean termination laws led employers to hire irregular workers. Choi pointed out that not only was it expensive to lay off regular workers, but there were non-pecuniary costs as well. For example, employers had to consult with unions far in advance of any terminations. Thus, most employers attempted instead to induce resignations through drawn out negotiations over severance pay. "It's a tedious process," conceded Choi. He explained that the government wanted to prohibit discrimination for irregular workers, but expand the types of work they could be employed to perform. Labor wanted to prohibit discrimination and also strictly limit the types of work they could do.

¶122. (SBU) Lim said that in Special Economic Zones (SEZs), foreign companies were exempt from certain provisions of the labor law. For example, unlike regular employers outside the SEZs, they were not required to grant menstruation leave to women or hire a certain percentage of disabled persons. Workers had the same union rights that are available outside SEZs.

TRIPARTITE COMMISSION SEES ROADMAP AND TEMPS AS KEY ISSUES

¶123. (SBU) Tripartite Commission (TPC) Chairman Kim Geum-soo said he hoped an FTA would be successfully concluded. Kim identified the Roadmap and irregular workers as the biggest issues of concern. He said that after two years of discussion the TPC submitted the Roadmap to the government in 2005. Both labor and management resisted many of the provisions. However, the government believed the Roadmap was crucial to advancement of industrial relations and compliance with international standards. Further, failure to regulate

the imminent emergence of multiple unions at the enterprise level could lead to chaos.

¶24. (SBU) The government first wanted to pass the irregular worker bill, which had been discussed for two years in the TPC. He said that the government's objectives were to eliminate discrimination, prevent abuse, and decrease the wage gap between regular and irregular workers. Labor, however, wanted to turn all workers into regular workers. The employers objected that the labor force would become too rigid.

VERSHBOW